Common Market Law Review **37:** 1265–1275, 2000.

Case C-254/98, *Schutzverband gegen unlauteren Wettbewerb* v. *TK-Heimdienst Sass GmbH*, Judgment of 13 January 2000, not yet reported

1. Introduction

In 1996, in *Pistre*,[1] the Court of Justice stated that "Article 30 [now 28] cannot be considered inapplicable simply because all the facts of the specific case before the national court are confined to a single Member State"; in the judgment discussed here, the Court has again ruled in a situation in which all the elements of the case were confined to a single Member State and no inter-State element was present. The following analysis seeks to assess the significance of these two judgments, which could be seen as extending the scope of application of Article 28 (ex 30) EC, so as to cover a purely internal situation, i.e. a situation in which no inter-State element is present. It is submitted that an alternative interpretation, which stems from the broad interpretation given by the Court to Article 234 (ex 177) EC, is possible. Although the different approach does not solve all the problems which arise from the Court's case law, it at least avoids the need to consider Article 28 applicable in purely domestic cases.[2] Article 28 prohibits quantitative restrictions and measures having equivalent effect on *imports*: to extend the scope of the provision to cover purely internal situations seems then to go against the wording of the Treaty, interpreting the word *imports* as to mean *trade in goods*.[3] It can hardly be believed that the Court would amend the Treaty in this way. Since it is suggested that the key for reading the judgments lies in Article 234, the analysis will be supplemented by a brief overview of the case law relating to the Court's jurisdiction.

1. Joined Cases C-321-324/94, *Criminal Proceedings against J Pistre and Others* [1997] ECR 2343.

2. For a view considering the concept of purely internal situation "somewhat outdated", see Tesauro "The Community's internal market in the light of the recent case-law of the Court of Justice", 15 YEL (1995), 1–16, at 16.

3. In Case 8/74, *Procureur du Roi* v. *Dassonville* [1974] ECR 837, measures having equivalent effect have been defined as all trading rules which directly or indirectly, actually or potentially hinder *intra-Community* trade. Thus, even though the Court has given a very broad interpretation of Art. 28, an intra-Community element, i.e. the fact that the good crossed the border, has always been a requirement for Art. 28 to apply.

2. Factual background

The case arose in relation to an Austrian provision which provided that sales on rounds of certain grocery products could be carried on only by traders who had a permanent establishment in that administrative district or in a municipality adjacent thereto: *Schutzverband gegen unlauteren Wettbewerb*, an association of undertakings which seeks to combat, *inter alia*, unfair competition, brought an action against a retail trader because it had infringed the provision. Although the facts of the case were purely internal, the Austrian Supreme Court referred a question to the ECJ in relation to the potential clash between said provision and Article 28 EC. The reference was made having regard to the prohibition on reverse discrimination sanctioned by the Austrian Constitutional Court.

3. The Advocate General's Opinion

Schutzverband contested the jurisdiction of the Court because of the lack of an inter-State element. Advocate General La Pergola rejected the claim relying on the Court's ruling in *Pistre* according to which when Article 28 is invoked, the Court is in any case competent to assess whether the rules at issue could affect intra-Community trade even when all the elements of the case itself are confined to a single Member State.[4] As for the substance of the case, Advocate General La Pergola found the rules at issue to be non-discriminatory selling arrangement, since (and provided that) retail traders established in the neighbouring countries had the possibility to sell their products under the same conditions as imposed on Austrians retailers.

4. The Court's judgment

Examining its competence to give the ruling, the Court found that it had jurisdiction, because it is for the referring court to determine the need and the relevance of the questions.

As for the substance of the case, the Court found that the provision at issue did not affect in the same manner the marketing of domestic and imported products, since it obliged foreign traders to establish themselves in the administrative district in order to offer their goods for sale on rounds. The Court's analysis on whether the selling arrangement were in fact discriminatory is not entirely clear, and seems to mark a step forward towards a more market access

4. A.G.'s Opinion para 8.

based test. The analysis below will not consider this aspect and will be limited to ascertaining whether Article 28 applies to purely internal situations.

5. Analysis

The thesis put forward is that the Court has applied its broad interpretation of Article 234 to the free movement of goods. Two situations may arise in which the Court of Justice could claim jurisdiction in cases in which Community law applies only *per relationem* or indirectly: the first one arises when national law reproduces Community provisions for domestic purposes. In this case the nature of the provision changes; having a Community origin the provision becomes a national rule which is in no other way linked with the Community legal order: it regulates a purely internal situation in cases which fall outside the scope of application of Community law.

The second case may arise in those Member States in which so called reverse discrimination is prohibited: reverse discrimination arises when, due to the effect of Community law, people exercising a Community right are in a better position, for that only reason, than nationals of the Member State who have not exercised their Community right. In a situation such as this, a Constitutional problem may arise in those countries the Constitution of which provides for a right to equality and a general prohibition of discrimination (such is the case in, for instance, Italy,[5] France and Austria). In these cases the scope of the prohibition on reverse discrimination may be assessed only having regard to the scope of the Community right: the right of the Member State national will have the same content as the right granted by the Community order.

In both cases national courts have made preliminary rulings to the European Court of Justice in order to assess the content of the national right. In the former situation, the ECJ, in most cases against the opinion of its Advocates General, has constantly ruled that it had jurisdiction on the matter. In the latter case, it has ruled that it had jurisdiction on the matter only in the field of free movement of goods.[6] We will first give a brief overview of the case law on Article 234, and will then proceed to an analysis of the cases relating to Article 28.

5. See judgment of the Constitutional Court 30 Dec. 1997, n. 443.

6. But see Case C-281/98, *R Angonese* v. *Cassa di Risparmio di Bolzano*, judgment of 6 June 2000, nyr, discussed below.

5.1. *The case law on Article 234*

The issue of jurisdiction of the Court in a purely internal situation firstly arose in 1985: the German Federal Railways used to calculate some of its tariffs having regard to the Customs Tariffs classification;[7] the national court made a preliminary reference to the ECJ, notwithstanding the fact that the situation was a purely internal one, asking clarification on the classification of the goods at issue for the purposes of the Customs Tariffs. The Court and Advocate General Mancini considered two different aspects of the Court's jurisdiction: whether the fact that the proceedings might have been artificially brought had any bearing on the Court's jurisdiction; and whether the Court had jurisdiction in a purely domestic case. Considering the latter issue, Advocate General Mancini found the Court not to have jurisdiction since to rule in such a case would mean to interpret national law and that "is something which the Court is expressly prohibited from doing by Article 177 [now 234] of the Treaty".[8] The Court, on the other hand, limited itself to consider the first issue, stating that it left it to "the national court to determine in the light of the facts of each case whether the preliminary ruling is necessary in order to decide the dispute".[9]

However, the Court subsequently made clear that it had jurisdiction in purely domestic cases in which Community law is applicable by virtue of a provision of national law reproducing or referring to a Community provision. This because "it is manifestly in the interest of the Community legal order that, in order to forestall future differences of interpretation, every Community provision should be given a uniform interpretation irrespective of the circumstances in which is to be applied".[10] This ruling was confirmed in subsequent case law,[11] the only exception being *Kleinwort Benson Ltd* v. *City of Glasgow*

7. Case 166/84, *Thomasdünger GmbH* v. *Oberfinanzdirektion Frankfurt am Main*, [1985] ECR 3001.

8. A.G.'s Opinion, para 3.

9. Para 11. The extent to which this statement is reconcilable with the ECJ refusal to rule in Case 104/79, *Foglia* v. *Novello* [1980] ECR 745, and Case 244/80, *Foglia* v. *Novello* [1981] ECR 3045, is disputable; see Arnull, *The European Union and its Court of Justice*, (Oxford, 1999), pp. 56–60.

10. Joined Cases C-297/88 and C-197/89, *Massam Dzodzi* v. *Belgian State* [1990] ECR I-3763, para 37. A.G. Jacobs in his Opinion in Joined Cases C-28/95 and C-140/95, *Leur Bloem* v. *Inspecteur der Belastingdienst/Ondernemingen Amsterdam 2*, [1997] ECR I-4161, at 4180, has considered this case inconsistent with Joined Cases C-320–322/90, *Telemarsicabruzzo SpA* v. *Circostel and others* [1993] ECR I-393, in which the Court refused to give a ruling because the Italian Court failed to provide it with enough factual information. However the Court must have not thought the same since it affirmed once again its power to rule in cases in which Community law is only indirectly applicable.

11. Case 231/89, *Krystyna Gmurzynska-Bscher* v. *Oberfinanzdirektion Köln* [1990] ECR I-4003; Case C-89/95, *Leur Bloem* cited *supra* note 10; Case C-130/95, *Bernd Giloy* v. *Hauptzollamt Frankfurt am Main-Ost* [1997] ECR I-4291.

District Council,[12] in which the Court, called upon to give an interpretation of a British jurisdiction rule based on the Brussels Convention, denied its jurisdiction. The Court found that it did not and could not have jurisdiction in cases which fell outside the scope of the Brussels Convention: one of the reasons which supported this finding was that if the Court had given a ruling in this case, the national court would not have been bound by it.[13]

Thus, apart from this judgment, the Court has given a broad interpretation of its jurisdiction. By relying on the principle of co-operation with national courts it has exercised jurisdiction in purely internal situations in which no Community element was present, exception given for the fact that a domestic provision referred to, or reproduced a, Community provision. Thus, the Court's interpretation of the boundaries of its jurisdiction may shed some light on the confusion created by the case law on Article 28, which we are now going to analyse.

5.2. *The scope of Article 28*

In the context of free movement of goods, the Court's willingness to accept jurisdiction in purely internal situations has created some confusion in relation to the exact scope of Article 28, i.e. on whether Article 28 must be interpreted as applying also to purely domestic cases in which no intra-Community element is present.

In the first case in which the Court accepted jurisdiction in a purely internal situation in relation to Article 28,[14] the Court explained that it did so because it is for the national courts to assess whether the question is relevant. The Court however specified that the legislation at issue was precluded by Article 28 only insofar as it applied to imports. Thus the Court, while accepting jurisdiction because of the general spirit of co-operation with national courts, made clear that, as a matter of Community law, Article 28 would not apply to purely internal situations.[15]

12. Case C-346/93, *Kleinwort Benson Ltd* v. *City of Glasgow District Council*, [1995] ECR I-615, noted by Betlem 33 CML Rev., 133–147.

13. A.G. Tesauro warned the Court that such a result would be inconsistent with the case law relating to cases in which Community law applies only *per relationem*, and urged the Court to refuse jurisdiction in both type of cases. Subsequently, in Case C-130/95 *Bernd Giloy* cited *supra* note 11, the Court took care to distinguish *Benson* from cases in which Community law applies *per relationem*, as *Dzodzi* and *Giloy*, pointing out that the law at issue in *Benson* took the Brussels Convention only as a model and that only partially reproduced its terms.

14. *Smanor* cited *supra* note 14.

15. Cf. A.G. Mischo's Opinion in Case 298/87, *Smanor*, cited *supra* note 14, para 8, who, examining the French contention that the situation was purely internal and that thus Art. 28 had no bearing, recalled Case 286/81, *Criminal proceedings against Oosthoek's Uitgeversmaatschappij BV*, [1982] ECR 4575, and then stated that "in the context of a reference

In *Pistre*,[16] the subsequent case in which the Court ruled in a clearly purely internal situation, the Court failed to examine its jurisdiction. Thus, the case brought confusion as to the scope of Article 28. The case arose in relation to a French law[17] which regulated the conditions for the use of indication of "mountain" provenance for foodstuffs and agricultural products. In order to use such denomination a specific authorization was required. Proceedings were brought against French producers who used the denomination without having obtained the previous authorization. The *Cour de Cassation* made a reference to the ECJ asking whether the provisions of Articles 30 and 36 (now 28 and 30 respectively) prevented the application of the domestic legislation. Advocate General Jacobs, the Commission and the French Government argued that, since the situation was a purely internal one, it fell outside the scope of application of the Treaty provisions. The Court, however, did not accept the argument stating that "whilst the application of a national measure having no actual link to the importation of goods does not fall within the ambit of Article 30 [now Art. 28] of the Treaty . . . , Article 30 [now Art. 28] cannot be considered inapplicable simply because all the facts of the specific case before the national court are confined to a single Member State". It thus seems that the ECJ implied that Article 28 can (and should?) be applied to purely internal situations.

It is however not at all clear that the Court intended such result: in one of the following paragraphs the Court reasoned as follows "*Since* the French Government has accepted that the domestic legislation in question could be applied to products imported from other Member States, *it follows* . . . that it constitutes an obstacle to *intra-Community trade* for the purposes of Article 30 [now 28] of the Treaty".[18] The Court seems to imply that the result would

for a preliminary ruling, the Court is not required to examine directly the main dispute and the facts of the case. The question whether, on its facts, the case does indeed, relate to a purely internal situation is for the national court to decide".

16. *Pistre*, cited *supra* note 1. In Case C-63/94 *Groupement National des Négociants en Pommes de Terre de Belgique (Belgapom)* v. *ITM Belgium SA and Vocarex SA* [1995] ECR I-2467, the applicability of Art. 28 in purely internal situations was examined by AG Cosmas: after having made clear that in his opinion Art. 28 should not apply to purely internal situations, he said that since the fact whether a situation is purely internal is for the national court to assess, the European Court can refuse to give a preliminary ruling only if it can establish "*beyond doubt*" that the situation is purely internal. Since that could not be established in the case at issue, he examined the substance of the matter. The Court, however, did not consider the issue, maybe also because it found the measures in question to be a non discriminatory selling arrangement and thus to fall in any case out of the scope of application of Art. 28.

17. For an appraisal of the French legislation and a positive comment on the Court's ruling see Rochard "Dispositions de la loi 'montagne' et principe communautaire de libre circulation des produits", (1998) RTDE, 237–255.

18. *Pistre*, *supra* note 1, para 48, emphasis added.

be different if the measure expressly did not apply to imports.[19] Moreover, the assessment of the effect of the measure is still made having regard to an intra-Community situation. Both these factors militate against an extension of the scope of Article 28. It thus seems that Article 28 applies whenever a national measure can potentially hinder trade. This was made clear in *Dassonville*. The change stems from the fact that in previous case law arising from Article 234 references, the potentiality of the measure was always seen in relation to the facts of the case: if Article 28 did not apply, the potentiality of the measure would not be scrutinized. What changes now is that the Court adopts an approach similar to the one adopted in proceedings brought by the Commission, in which the legality of a measure is assessed having regard to a purely abstract situation: in these proceedings the Court made clear that the fact that a provision is not applied in practice does not exempt the Member State from being in breach of Community law.[20] What does not change is that the potentiality of the measure will in any case be evaluated having regard to an intra-Community situation.

If we read the judgment in this light we can argue that the Court has not changed its interpretation of Article 28; however, it could be wondered whether, by scrutinizing the legitimacy of national legislation *vis-à-vis* the Treaty regardless of the concrete situation in which the proceedings arise, the Court is not slowly changing its function, assuming a role more similar to a Constitutional Court.

The interpretation suggested here seems to be supported by *Schutzverband*.[21] As we have seen above, the framework in which the Court was called to give its judgment is similar to the one in *Pistre*: however the Court took a different approach.

In *Schutzverband* the Court started by analysing the jurisdictional issue, something which it had not done in *Pistre*. It found, consistently with constant case law on Article 234, that it had jurisdiction, because Article 234 is "an instrument of cooperation between the Court of Justice and the national courts, by means of which the Court provides the national courts with the points of interpretation of Community law which they need in order to decide

19. So far no case relating to a national rule applying only to domestic goods has been referred. It however seems that in such a case the Court should refuse jurisdiction, Community law not being even indirectly relevant.

20. For a recent example, see Case C-184/96, *Commission* v. *France*, (foie gras) [1998] ECR I-6197.

21. In Case C-67/97, *Criminal proceedings against Ditlev Bluhme* [1998] ECR I-8033, the Court was faced with a prohibition of imports of bees in a part of the Danish territory. A.G. Fenelly, dealing with the submission that the Court should not answer the question because it concerned a purely internal situation, relied on the fact that the defendant possessed a licence for the import and export of bees. The Court did not examine the issue.

the disputes before them."[22] By discussing its jurisdiction, the Court silently acknowledges that Article 28 would not, *per se*, apply to purely internal situations: the Court answers the question because it is not going to challenge the national court's assessment of its need to have an interpretation of a Treaty provision.[23] It is worth mentioning that, we think not by chance, *Pistre*, recalled by Advocate General La Pergola, is not even mentioned by the Court.

The substance of the case is then decided with reference to an intra-Community situation,[24] to a potential situation which could arise. The operative part of the judgment is formulated in general terms and there is no specification, such as there was in *Smanor*,[25] that Article 28 would preclude the application of the legislation in question to *imported* products. However, this fact could also be explained having regard to the question put forward by the Supreme Court which was formulated in extremely general terms.

The interpretation suggested here seems to find some authority in at least two cases on the free movement of persons provisions.[26] In *SETTG* v. *Ypour-*

22. Para 12. The Court then states that it is solely for the national court to assess whether there is a need for a reference.

23. A different approach is taken by A.G. La Pergola who expressly denies the fact that the case law on Art. 234 relating to the Court's jurisdiction in cases in which European law is applicable by virtue of national law is relevant. This is because he believes that Art. 28 is applicable *per se* in purely internal situations. See A.G.'s Opinion in *Schutzverband*, footnote no. 10.

24. See para 21: "A baker, butcher or grocer *from another Member State*" wishing to offer its goods "which come *from other Member States*"; para 25: the legislation in question "does not affect in the same manner the marketing of domestic products and that of products *from other Member States*"; para 29: ". . . the application to all operators trading in the national territory of a national legislation such as that in point in the main proceedings in fact impedes access to the market of the member State of importation for products *from other Member States*, more that it impedes access for domestic products"; para 30: "The restrictive effects of such legislation" . . . . "impede trade *between Member States*"; para 31: the legislation "is capable of impeding *intra-Community* trade" etc.

25. Case 298/87, *Smanor* cited *supra* note 14. It is worthwhile noticing that in this case also the Court accepted jurisdiction on Art. 234 grounds, stating that "it is for the national courts, ... to weigh the relevance of the questions which they refer to the Court, in the light of the facts of the cases before them" (para 9).

26. In the case of free movement of workers (Art. 39, ex 48), freedom of establishment (Art. 43, ex 52), and free movement of services (Art. 49, ex 59), the Court had constantly refused to scrutinize situations in which no Community element was present; see e.g. in relation to free movement of persons and establishment Case C-17/94, *Criminal Proceedings against D Gervais and Others*, [1995] ECR I-4353, para 24; Case C-60/91, *Criminal Proceedings against J A B Morais* [1992] ECR I-2085, para 7; in relation to workers Case C-332/90, *Volker Steen* v. *Deutsche Bundespost*, [1992] ECR I-341, para 9; and Case C-132/93, *Volker Steen* v. *Deutsche Bundespost* [1994] ECR I-2715 which was a case of pure reverse discrimination, paras. 9 and 10 "The only effect of the *Steen* judgment is to preclude Community law from being relied on with respect to a purely internal situation", and then para 10 "It is for the national court, faced with a question of national law, to determine whether there is any discrimination under

gos Ergasias[27] it was not clear whether nationals of other Member States were involved in the main action. Advocate General Lenz, dealing with this issue, stated that "it must be left to the national court to decide whether a question relating to Community law is necessary for the decision".[28] For this reason, and since the national court was not "clearly" abusing the procedure under Article 234, the Advocate General examined the merit of the reference. The Court on the other hand failed to address the jurisdiction issue, and examined the potentiality of hindrance to the cross border provision of services in a purely abstract way.[29]

More recently, in *Angonese*,[30] the Court agreed to give a ruling on the interpretation of Article 39 in a purely internal situation. The Court stressed once again, against Advocate General Fenelly's Opinion, that it is for the national courts to assess the need for a preliminary ruling in order to enable them to give their judgment; in the case at issue, in the Court's opinion, it was "far from clear" that the interpretation of Community law sought by the national court had "no relation to the actual facts of the case or to the subject-matter of the main action".[31]

that law and whether that discrimination must be eliminated and, if so, how"; in relation to establishment Case C-112/91, *H Werner* v. *Finanzamt Aachen-Innenstadt*, [1993] ECR I-429, para 17, and more recently, Case C-108/98, *RI.SAN srl* v. *Comune di Ischia et al*., judgment of 9 Sept. 1999, nyr. But see Joined cases C-51/96 and C-191/97, *C Deliège* v. *Ligue Francophone de Judo et Disciplines Associées ASBL et al*, judgment of 11 April 2000, nyr, para 58. In this case also it was not absolutely clear whether there was a Community element.

27. Case C-398/95, *Syndesmos ton en Elladi Touristikon kai Taxidiotikon Grafeion* v. *Ypourgos Ergasias* [1997] ECR I-3091.

28. Ibid., para 8, I-3096.

29. The legislation at stake would in fact apply only to tourist guides licensed to pursue the profession of guide in Greece, i.e. mostly tourist guides thereby established, since following an earlier ruling of the Court, non-established guides did not need to be licensed. However, the Court found that this factor were irrelevant in that it could not be excluded that a non-established tourist guide could have an interest in getting the Greek licence. Since in that (purely theoretical) case the rules at issue would apply to a non-established service provider, the Court thought that it had to scrutinize them.

30. Cited *supra* note 6. The case is of particular interest because the Court stated the applicability of the prohibition of discrimination contained in Art. 39 to private persons (regardless of collective agreements).

31. Para 19. A.G. Fennelly found the case to fall outside the scope of Community law because there was no connecting factor with it. He then took care to distinguish such case from cases such as *Dzodzi*, *Leur-Bloem* and *Giloy* (paras. 36 and 37), since in the case at issue Art. 39 did not apply to the applicant's situation and Art. 39 had not been expressly extended to his situation, as in the *Dzodzi* line of cases, by Italian law.

6. Conclusions

If the interpretation thus suggested is accepted, Article 28 does not apply to purely internal situations. Nonetheless, the outcome gives rise to problems.

Firstly, and this is a problem arising in all the cases in which the ECJ exercises jurisdiction notwithstanding the fact that Community law applies only *per relationem*, i.e. by virtue of a provision of domestic law which refers to it, or reproduces it, or by virtue of reverse discrimination, it is not clear to what extent the national court is bound by the ECJ's interpretation. If the national court is applying domestic legislation, as in the case of reverse discrimination issues, on what basis would it be bound by the Court's interpretation? If, for instance, a new Constitutional Court judgment were to say that reverse discrimination is admissible, would the Supreme Court be bound by the ECJ ruling?

Advocate General Saggio in his Opinion in *Guimont*,[32] a case which again concerned a purely internal situation in relation to Article 28, has urged the Court to modify its approach and to refuse jurisdiction in such cases. Amongst the many reasons he puts forward, he points out that the national judge can, even in case where the ruling found the national regulation to be inconsistent with Community law, apply the same regulations to the domestic undertakings which produce and market their products on the national territory.

In *ICI* v. *Colmer*[33] the Court has stated that when deciding an issue concerning a situation which lies outside the scope of Community law "the national court is not required, under Community law, either to interpret its legislation in a way conforming with Community law or to disapply that legislation". If the interpretation hereby suggested is accepted, Article 28 does not apply to purely internal situations, and the national judge is not bound by the Court's ruling.

This as a matter of Community law; however, these types of references are made in order to assess the legitimacy of the provision at stake with national (Constitutional) law, to assess whether the judge has to disregard the contested provision as a matter of national law, not as a matter of Community law. In this regard, some confusion as to the power of the judge to disregard national law in cases where no inter-State element is present could arise when a reference of this type is made from a country which reserves judicial scrutiny of the Constitutionality of a measure to the Constitutional Court. If there is no inter-State element, as a matter of national constitutional law, the judge cannot disapply national legislation.

32. Case C-448/98, *Ministère Public* v. *J P Guimont*, delivered on 9 March 2000.

33. Case C-264/96, *Imperial Chemical Industries (ICI)* v. *K Hall Colmer* [1998] ECR I-4695, at para 35.

Secondly, the Court is consistent in repeating that it cannot assess the compatibility of national law with Community law in Article 234 proceedings. However, by accepting jurisdiction in purely internal cases where there is no actual breach of a Community provision,[34] on grounds that it cannot exclude that the rules at issue would not be applied to imports and cross border situations, the ECJ is *de facto* assessing the compatibility of national legislation with Community law. In such cases the distinction between proceedings brought by the Commission and preliminary references in which national courts seek guidance in the application of Community law to the facts of a given case seems to fade away. When Community law does not apply, as it is the case in purely internal situation cases and in indirect application cases, it would probably be wiser for the Court to refuse to give a ruling so as to reduce the confusion about the boundaries of application of Community law and save its precious resources for cases in which genuine Community law issues are at stake.

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34. An actual breach could stem from a potential hindrance to intra-Community trade, which is different from holding that a potential breach of Art. 28 in preliminary reference cases is enough to bring the legislation within the scope of Community law.

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